

Attorney Docket: 01098
U.S. Application No.: 10/743,358 Examiner: Loo Art Unit: 2609
Response to September 10, 2007 Office Action

REMARKS

In response to the Office Action dated September 10, 2007, the Assignee respectfully requests reconsideration based on the above amendments and on the following remarks.

Claims 1-16 are pending in this application.

Rejections under § 112

The Office rejected claims 1-16 under 35 U.S.C. § 112, second paragraph, for being indefinite. Claims 1-16, however, have been amended and no longer resemble their original presentation. The Office is respectfully requested to re-examine claims 1-16.

Rejection of Claims Under § 102 (b) over *Majeti*

The Office rejected claims 1-3, 5-8, and 15 under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent 5,534,913 to Majeti, *et al.* A claim, however, is anticipated only if each and every element is found in a single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). *See also* DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P.").

These claims, however, are not anticipated by *Majeti*. These claims recite, or incorporate, many features that are not disclosed or suggested by *Majeti*. Independent claim 1, for example, recites "*connecting the second physical medium to other subscriber's communications devices*" and "*sharing the second physical medium amongst the subscriber and the other subscribers.*" Support for such features may be found at least in the as-filed application at paragraph [0015]. Independent claim 1 also recites "*when the requested communications service exceeds an available bandwidth of the first physical medium, then temporarily logically bonding the second physical medium to the subscriber's communications device to provide*

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additional bandwidth, such that first physical medium and the second physical medium share a session of information.” Support for such features may be found at least in the as-filed application at paragraph [0014]. Independent claim 1 also recites *“when the additional bandwidth is no longer needed, removing the temporary logical bonding of the second physical medium”* and *“reverting the second physical medium to its shared configuration, thus allowing another subscriber to receive increased bandwidth when required.”* Support for such features may be found at least in the as-filed application at paragraph [0015]. Independent claim 1 is reproduced below, and independent claim 15 recites similar features.

[c01] A method of providing communications services, comprising:

logically bonding a first physical medium to a subscriber's communications device;

connecting a second physical medium to the subscriber's communications device;

connecting the second physical medium to other subscriber's communications devices;

sharing the second physical medium amongst the subscriber and the other subscribers;

receiving a request for communications service from the subscriber's communications device;

when the requested communications service exceeds an available bandwidth of the first physical medium, then temporarily logically bonding the second physical medium to the subscriber's communications device to provide additional bandwidth, such that first physical medium and the second physical medium share a session of information;

providing the requested communications service via the logically bonded first physical medium and the temporarily logically bonded second physical medium; and

when the additional bandwidth is no longer needed, removing the temporary logical bonding of the second physical medium; and

reverting the second physical medium to its shared configuration, thus allowing another subscriber to receive increased bandwidth when required.

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Majeti cannot anticipate all these features. *Majeti* discloses a bridging unit that sends low-speed upstream data through the PSTN, while high speed data is modulated and downloaded over a cable channel. See U.S. Patent 5,534,913 to *Majeti, et al.* column 4, lines 1-45. Service providers may also initiate a call over the PSTN to the subscriber's computer. See *id.* at column 7, lines 45-50. Still, though, *Majeti* fails to teach or suggest "*sharing the second physical medium amongst the subscriber and the other subscribers.*" The patent to *Majeti, et al.* also fails to teach or suggest "*when the requested communications service exceeds an available bandwidth of the first physical medium, then temporarily logically bonding the second physical medium to the subscriber's communications device to provide additional bandwidth, such that first physical medium and the second physical medium share a session of information.*" The patent to *Majeti, et al.* also fails to teach or suggest "*when the additional bandwidth is no longer needed, removing the temporary logical bonding of the second physical medium*" and "*reverting the second physical medium to its shared configuration, thus allowing another subscriber to receive increased bandwidth when required.*" Because *Majeti* is entirely silent to at least these features, *Majeti* cannot anticipate independent claims 1 and 15.

Claims 1-3, 5-8, and 15, then, cannot be anticipated by *Majeti*. Independent claims 1 and 15 recite features that are not taught or suggested by *Majeti*. Dependent claims 2-3 and 5-8 incorporate these same features and recite additional features. Claims 1-3, 5-8, and 15, then, cannot be anticipated by *Majeti*, so the Office is respectfully requested to remove the § 102 (b) rejection of these claims.

Rejection of Claims Under § 102 (b) over Joseph

The Office rejected claims 9-14 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent Application Publication 2003/0108063 to *Joseph, et al.*

These claims, however, are not anticipated by *Joseph*. These claims recite, or incorporate, many features that are not disclosed or suggested by *Joseph*. Independent claim 9, for example, recites "*configuring a second twisted pair for shared Digital Subscriber Line*

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service amongst the destination and another destination.” Support for such features may be found at least in the as-filed application at paragraph [0015]. Independent claim 9 also recites *“when the requested communications service exceeds an available bandwidth of the first twisted pair, then temporarily logically bonding the second twisted pair to the destination to provide additional bandwidth.”* Support for such features may also be found at paragraph [0015]. Independent claim 9 is reproduced below. Independent claim 9 also recites *“when the additional bandwidth is not needed, removing the temporary logical bonding of the second twisted pair”* and *“reverting the second twisted pair to its shared configuration, thus allowing the another destination to receive increased bandwidth when required.”* Support for such features may also be found at paragraph [0015]. Independent claim 9 is reproduced below.

[c09] A method of providing communications services, comprising:

configuring a first twisted pair to provide Digital Subscriber Line service to a destination;

configuring a second twisted pair for shared Digital Subscriber Line service amongst the destination and another destination;

receiving a request for communications service;

transmitting digital subscriber line signals to the destination via the first twisted pair;

when the requested communications service exceeds an available bandwidth of the first twisted pair, then temporarily logically bonding the second twisted pair to the destination to provide additional bandwidth;

providing the requested communications service via the logically bonded first twisted pair and the temporarily logically bonded second twisted pair; and

when the additional bandwidth is not needed, removing the temporary logical bonding of the second twisted pair; and

reverting the second twisted pair to its shared configuration, thus allowing the another destination to receive increased bandwidth when required.

Joseph cannot anticipate all these features. *Joseph* discloses bonding multiple DSL lines into a “single ‘virtual’ pipe.” U.S. Patent Application Publication 2003/0108063 to *Joseph, et al.* at paragraph [0008]. *Joseph* uses “inverse multiplexing” to combine multiple physical links

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(e.g., digital subscriber lines) into one logical link. *Id.* at paragraph [0018]. Still, though, *Joseph* fails to teach or suggest “*configuring a second twisted pair for shared Digital Subscriber Line service amongst the destination and another destination*” (emphasis added). *Joseph* also fails to teach or suggest “*when the requested communications service exceeds an available bandwidth of the first twisted pair, then temporarily logically bonding the second twisted pair to the destination to provide additional bandwidth*” (emphasis added). *Joseph* also fails to teach or suggest “*when the additional bandwidth is not needed, removing the temporary logical bonding of the second twisted pair*” and “*reverting the second twisted pair to its shared configuration, thus allowing the another destination to receive increased bandwidth when required*” (emphasis added).

Claims 9-14, then, cannot be anticipated by *Joseph*. Independent claim 9 recites features that are not taught or suggested by *Joseph*. Dependent claims 10-14 incorporate these same features and recite additional features. Claims 9-14, then, cannot be anticipated by *Joseph*, so the Office is respectfully requested to remove the § 102 (e) rejection of these claims.

Rejection of Claim 16 under § 102 (e)

The Office rejected claim 16 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent Application Publication 2004/0062198 to Pedersen, *et al.*

Claim 16, however, is not anticipated by *Pedersen*. Claim 16 recites many features that are not disclosed or suggested by *Pedersen*. The published application to Pedersen, *et al.* discloses another scheme for bonding DSL links into higher-bandwidth logical links. See U.S. Patent Application Publication 2004/0062198 to Pedersen, *et al.* at paragraph [0010]. Yet *Pedersen* still fails to teach or suggest “*when the requested communications service exceeds an available bandwidth of a first physical medium, then temporarily logically bonding a second physical medium to provide additional bandwidth*” (emphasis added). The published application to Pedersen, *et al.* also fails to teach or suggest “*downloading the media content via the first physical medium and the temporarily logically bonded second physical medium*” (emphasis

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added). The published application to Pedersen, *et al.* also fails to teach or suggest “when the additional bandwidth is no longer needed, reverting the second physical medium to a shared configuration, thus allowing another requestor to receive increased bandwidth when required” (emphasis added). Because Pedersen entirely fails to teach or suggest this shared, “temporarily logically bonded second physical medium,” the published application to Pedersen, *et al.* cannot anticipate independent claim 16. The Office is respectfully requested to remove the § 102 (e) rejection of this claim.

Rejection of Claim 4 Under § 103 (a)

The Office rejected claim 4 under 35 U.S.C. § 103 (a) as being obvious over *Majeti* in view of U.S. Patent 6,452,923 to Gerszberg, *et al.* Claim 4, however, depends from independent claim 1 and, thus, incorporates the same distinguishing features discussed above. As the above paragraphs explained, *Majeti* fails to teach or suggest many of independent claim 1's features, and Gerszberg does not cure these deficiencies. Gerszberg discloses a residential gateway that couples to a coaxial cable and to twisted pairs. Still, though, the combined teaching of *Majeti* with Gerszberg fails to teach or suggest at least “*sharing the second physical medium amongst the subscriber and the other subscribers.*” The proposed combination of *Majeti* with Gerszberg also fails to teach or suggest “*when the requested communications service exceeds an available bandwidth of the first physical medium, then temporarily logically bonding the second physical medium to the subscriber's communications device to provide additional bandwidth, such that first physical medium and the second physical medium share a session of information.*” The proposed combination of *Majeti* with Gerszberg also fails to teach or suggest “*when the additional bandwidth is no longer needed, removing the temporary logical bonding of the second physical medium*” and “*reverting the second physical medium to its shared configuration, thus allowing another subscriber to receive increased bandwidth when required.*” Because *Majeti* with Gerszberg is entirely silent to at least these features, claim 4 cannot be obvious. The Office is respectfully requested to remove the § 103 (a) rejection of this claim.

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If any issues remain outstanding, the Office is requested to contact the undersigned at
(919) 469-2629 or scott@scottzimmerman.com.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott P. Zimmerman', with a stylized flourish at the end.

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